IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3239 OF 2005

Vikas Janardhan Jadhav ...Applicant
vs.
State of Maharashtra ...Respondent

Mr.M.K.Kocharekar for the Applicant
Mr.R.Y.Mirza,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : JUNE 9,2005.

P.C.:

1. Heard Counsel appearing for the parties. This is an Application for anticipatory bail. On 12th March 2005 C.R.No.59 of 2005 was registered against the Applicant and one more person for offences punishable under Sections 324, 504 read with 34 of the Indian Penal Code. First Information Report is lodged by the injured person who subsequently expired. The F.I.R. is regarding incident of 8th February 2005. The allegation against the Applicant and the co-accused is that they assaulted the complainant by fist blows and kicks. The case made out in the F.I.R. is that after the incident, the complainant went back to his home and he had pain in abdomen. He was admitted to Civil Hospital and was discharged on 17th February 2005. The F.I.R. further discloses that on 4th March 2005 the complainant was again admitted to Civil Hospital. The F.I.R. is filed on 12th March 2005.

2. On 14th March 2005 the Applicant and the other co-accused surrendered before the learned Judicial Magistrate (F.C.),

Solapur. The Applicant was ordered to be released on bail by the learned Magistrate. The complainant expired on 16th March 2005 and therefore on that day Section 302 of I.P.C. was applied. By order dated 18th March 2005 passed by the learned Magistrate on the basis of remand report, the bail granted to the Applicant and other co-accused was cancelled and they were directed to surrender before the concerned Police Station. Therefore, an application for anticipatory bail was filed by the Applicant. The learned Sessions Judge has rejected the said application by observing that there was a prima facie evidence against the Applicant to connect with the guilt. The learned Judge referred to the cause of death of the complainant mentioned in the P.M. notes.

3. The learned Counsel for the Applicant submitted that after the alleged incident of assault on 8th February 2005, F.I.R. came to be filed for the first time on 12th March 2005. He submitted that the Applicant is an educated person and he was to appear for M.A. (Part-II) examination of Shivaji University in May 2005 and he was also acting as a Special Executive Magistrate. He submitted that the cause of death mentioned in the P.M. notes is ‘septicemia’ which has nothing to do with the injuries due to alleged assault.

4. The learned A.P.P. relied upon the P.M. notes. He submitted that the injuries in Column No.17 can be correlated with the cause of death. He submitted that the other

co-accused is absconding. Hence no case is made out for grant of anticipatory bail.

5. It is pertinent that there is a gross delay in filing the F.I.R. For the alleged incident of 8th February 2005, F.I.R. was lodged on 12th March 2005 disclosing offence under Section 324 and 504 read with Section 34 of I.P.C. The F.I.R. discloses the assault by the Applicant by fist blows and kicks. On 17th February 2005 the complainant was discharged from the Civil Hospital and was readmitted on 4th March 2005. It is also to be noted here that the Applicant on his own surrendered before the learned Magistrate.

6. This is not a case where any weapon is used in the offence. The question whether the cause of death mentioned in the P.M. notes has any co-relation with the injuries sustained due to the assault is a matter of medical evidence. Even considering the order passed by the Additional Sessions Judge, no case is made out for establishing the requirement of custodial interrogation. Considering the fact situation which is set out hereinabove, a case is made out for grant of anticipatory bail.

7. Hence I pass the following order :

i) In the event of arrest of the Applicant in connection with C.R.No.59 of 2005 registered at Sadar Bazar Police Station,

Solapur the Applicant shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.10,000/-(Rupees ten thousand only) with two local sureties in the like amount.

ii) The Applicant is directed to attend the concerned Police Station on every Monday and Thursday from 11.00 a.m. to 2.00 p.m.

iii) This order will enure to the benefit of the Applicant only till the expiry of period of fifteen days from the date of filing charge sheet.

JUDGE